

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1341

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-1-12.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) No annuity contract shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions, which in the opinion of the insurance commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) Upon:

(A) cessation of payment of considerations under an annuity contract; **or**

(B) **the written request of the contract holder;**

the company ~~will~~ **shall** grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in sections 4, 5, 6, 7, and 9 of this chapter.

(2) If an annuity contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company ~~will~~ **shall** pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in sections 4, 5, 7, and 9 of this chapter. The company ~~shall~~ **may** reserve the right to defer the payment of such cash surrender benefit for a period of **not more than** six (6) months after demand therefor

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with surrender of the contract **but only after:**

(A) submitting to the commissioner a written request that addresses the:

(i) necessity of the deferral; and

(ii) equitability of the deferral for all the company's contract holders; and

(B) receiving the commissioner's written approval to defer.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the annuity contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

(b) Notwithstanding the requirements of this chapter, any annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

SECTION 2. IC 27-1-12.5-3, AS AMENDED BY P.L.130-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The minimum values as specified in sections 4, 5, 6, 7, and 9 of this chapter of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(b) With respect to any annuity contract, ~~providing for flexible considerations~~, the minimum nonforfeiture amounts at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at ~~a an annual~~ rate of interest of ~~three percent (3%) per annum of percentages determined under~~

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subsections (d) and (e) of the net considerations (as hereinafter defined) as set forth in subsection (c) paid prior to such time, decreased by the sum of the following:

(1) Any prior withdrawals from or partial surrenders of the **annuity** contract accumulated at **a an annual** rate of interest of **three percent (3%) per annum; and determined under subsections (d) and (e).**

(2) The amount of any indebtedness to the company on the **annuity** contract, including interest due and accrued.

and increased by any existing additional amounts credited by the company to the contract.

(3) An annual contract charge of fifty dollars (\$50), accumulated at the annual rate of interest determined under subsections (d) and (e).

(c) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount **not less than zero and shall be equal to the corresponding eighty-seven and one-half percent (87.5%) of the gross considerations credited to the annuity contract during that contract year. less than an annual contract charge of thirty dollars (\$30) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year.** The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%):

(c) With respect to any annuity contract providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

(1) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(2) The annual contract charge shall be the lesser of (i) thirty

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dollars (\$30) or (ii) ten percent (10%) of the gross annual consideration.

(d) With respect to any annuity contract providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75).

(e) Notwithstanding any other provision of this section, the minimum nonforfeiture amount for any contract issued on or after July 1, 2002, and before July 1, 2004, shall be based on a rate of interest of one and one-half percent (1.5%) per annum.

(d) Except as provided in subsection (e), the interest rate used in determining minimum nonforfeiture amounts is an annual rate of interest determined under either of the following methods:

(1) The five-year constant maturity treasury rate, rounded to the nearest five-hundredths of one percent (0.05%), as reported by the Federal Reserve as of a date specified in the annuity contract. Reduce this amount by one hundred twenty-five (125) basis points.

(2) An average of the five-year constant maturity treasury rate as reported by the Federal Reserve, rounded to the nearest five-hundredths of one percent (0.05%), over a specified period as set forth in the annuity contract. Reduce this amount by one hundred twenty-five (125) basis points.

The date under subdivision (1) or the average period used under subdivision (2) may not be longer than fifteen (15) months before the annuity contract issue date or the redetermination date as determined under subsection (f).

(e) If the rate of interest determined under subsection (d) is:

(1) less than one percent (1%), the interest rate used in determining minimum nonforfeiture amounts is one percent (1%); or

(2) greater than three percent (3%), the interest rate used in determining minimum nonforfeiture amounts is three percent (3%).

(f) The interest rate determined under subsections (d) and (e) applies for an initial period and may be redetermined for subsequent periods. The redetermination date, basis, and period, if any, must be specified in the annuity contract. The basis is:

(1) the date; or

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(2) an average calculated over a specified period; that produces the value of the five-year constant maturity treasury rate reported by the Federal Reserve to be used at each redetermination date.

(g) During the period or term that an annuity contract provides substantive participation in an equity index benefit, the contract may increase the basis point reduction described in subsection (d) by not more than an additional one hundred (100) basis points to reflect the value of the equity index benefit. The present value at the annuity contract issue date, and at each redetermination date after the annuity contract issue date, of the additional reduction may not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If the demonstration is not acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(h) The commissioner may adopt rules under IC 4-22-2 to provide for further adjustments to the calculation of minimum nonforfeiture amounts for:

- (1) annuity contracts that provide participation in an equity index benefit; and
- (2) other annuity contracts for which the commissioner determines adjustments are justified.

SECTION 3. IC 27-1-12.5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 4. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 27-1-12.5-3, as amended by this act, and SECTION 5 of this act, after June 30, 2004, and before July 1, 2006, a company (as defined in IC 27-1-2-3) may elect to apply one (1) of the following to an annuity contract (as defined in IC 27-1-12.5-1) issued after June 30, 2004, and before July 1, 2006, on a form by form basis:

- (1) IC 27-1-12.5-3, as amended by this act.
- (2) IC 27-1-12.5-3, as in effect before amendment by this act.

(b) This SECTION expires July 1, 2006.

SECTION 5. [EFFECTIVE JULY 1, 2004] IC 27-1-12.5-2 and IC 27-1-12.5-3, both as amended by this act, apply to an annuity contract (as defined in IC 27-1-12.5-1) issued after June 30, 2004.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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